

## **DRAFT**

### **Minutes of Meeting**

#### **Washington State Board of Optometry**

A meeting of the Washington State Board of Optometry was called to order at 9:00 a.m., on Friday, March 18, 2005 by Thomas Riley, O.D., Chair. The meeting was held in Conference Room Two, of the Department of Health Offices, Center Point Corporate Park, 20435 72<sup>nd</sup> South, Kent, Washington.

#### **BOARD MEMBERS**

##### **PRESENT:**

Thomas Riley, O.D., Chair  
R. Richard Ryan, Jr., O.D.  
Lund Chin, O.D.  
Jeffrey Sutro, O.D.  
Mariann Tonder, O.D.  
Mary Lou Staples, Public Member

##### **STAFF PRESENT:**

Gail Yu, Assistant Attorney General  
Kristi Weeks, Staff Attorney  
Todd Henry, Health Policy Manager  
Judy Haenke, Program Manager

##### **OTHERS PRESENT:**

Donald Williams, RPh, FASHP  
Karl Bronnje, Walmart Vision Centers  
Earl Tower, Optometric Physicians of Washington

#### **ORDER OF AGENDA**

##### **OPEN SESSION:**

#### **1. Call to Order**

##### **1.1 Approval of Agenda**

The Agenda was approved as written.

##### **1.2 Approval of Minutes of the December 3, 2004, Meeting**

The minutes of the December 3, 2004, meeting were approved as written.

##### **1.3 Board Chair Report**

Thomas Riley, O.D., Chair, reported that two board member terms will be expiring in September of 2005, his first three-year term, and the second three-year term of R. Richard Ryan, O.D. Dr. Riley will seek reappointment for a second term.

Regarding oral certification, Dr. Riley stated that, to date, a total of 736 active licensees have been certified for oral prescriptive authority.

**2. Petition for amendment of WACs 246-851-580, 590, and 610.**

The Board considered a petition submitted by the Washington Academy of Eye Physician and Surgeons for amendment of WACs 246-851-580, 590 and 610.

Thomas Riley, O.D. Chair, stated:

The Washington Academy of Eye Physicians and Surgeons (WAEPS), states that WAC 580, 590, and 610 fail to conform with the intent of Chapter 142, Laws of 2003, Section 1(4)., In its Petition, WAEPS contends that the use of categories or classes of drugs, instead of a list of specific drug products or agents, is not supported by the bill's language or committee reports, and is in conflict with legislative intent.

As directed by the Legislature, the Washington State Board of Optometry along with the Washington State Board of Pharmacy worked closely throughout the development of these rules.

In WAC 246-851-590, the Guidelines for use, oral Schedule III through V Controlled substances and legend drugs are limited to only those drugs appropriate to treatment of diseases or conditions of the human eye and the adnexa that are within the scope of practice of optometry.

Schedules III, IV and V controlled substances are restricted to pain medication and anti-anxiety agents. Anti-anxiety agents are limited to one dosage unit of the family of medications, benzodiazepines (e.g., Librium, Valium, etc.). Schedule III and IV controlled substances have a maximum quantity of thirty dosage units per prescription.

Finally, the rule provides that the specific dosage for use and appropriate duration of treatment of oral medications will be consistent with the guidelines established by the Federal Food and Drug Administration (FDA)

Senator Patricia Hale, prime sponsor of the enabling legislation, encouraged the board to create clear classifications of families of drugs for use by optometric physicians and rely on existing FDA requirements for forms and dosage.

Representative Eileen Cody, R.N. Chair of the House Health Care Committee that passed the legislation, indicated that she was not necessarily opposed to the use of a list of drugs by category instead of by name.

Brett Bence, O.D., President of the Optometric Physicians of Washington at the time the authorizing statute was enacted, provided oral testimony at the April 23, 2004, Rules Hearing concerning statutory language relating to topical drugs. Dr. Bence explained that the administrative amendment changing "schedule" of topical drugs to "list" of topical drugs was to avoid confusion with Scheduled controlled substances discussed in the following subsection. Dr. Bence further testified that this change was specifically to conform to other parts of the bill and not intended to require a list of individual drugs.

In conclusion, The Washington State Board of Optometry adopted rules that are consistent with the intent of the legislature. The Board obtained approval of the drug list and guidelines from the Board of Pharmacy as required. The Optometry and Pharmacy Boards took this responsibility very seriously and believes that the safeguards that are built into the rules do meet the intent of the legislature.

For of these reasons, it is my opinion, that the Petition for Amendment submitted by the Washington Academy of Eye Physician and Surgeons be denied.

Dr. Riley also stated that it is not in the best interest and safety of the patients to have an exhaustive list of drugs; that it is confusing to the patients and to the pharmacists.

Jeffrey Sutro, O.D., stated

Dr. Sutro too, spoke of the support of Prime Sponsor, Senator Patricia Hale, for categories of drugs rather than a list of drugs.

Dr. Sutro compared the use of the term “list” when used to define lists of approved drugs. Regarding topical drugs, the original statute directed the Board to establish a “schedule” of (topical) drugs. The topical drug formulary was adopted in 1989 as a list of categories of topical medications. The term “schedule” (of topical drugs) was changed to “list” in the substitute version to avoid confusion with the next section of the bill which addressed approved schedule III through V drugs. In the enacting legislation, the Board was directed to establish a “list” of schedule III through V controlled substances and any oral legend drugs. If the term “list” of topical drugs can be defined as a list of categories of topical drugs, then it is reasonable that the legislature would use the term “list” of oral drugs, to also be defined as a list of categories of oral drugs.

Dr. Ryan stated:

Dr. Ryan concurred that the topical “list” is used to keep the language the same, not to require an actual list of medications.

Dr. Ryan voiced concern that if the list were of specific drugs, the Board would be involved in seemingly never ending rules hearings as new drugs are introduced into the market.

Mary Lou Staples stated:

Ms. Staples did not agree that a list of specific drugs would be a safety issue, and that a list would make it easier for optometrists to know exactly what they can use. Ms. Staples added that she did not feel it is unsafe to use categories, since the categories are limited to the practice of optometry, so they are in a sense, limited.

Maryann Tonder, O.D., stated:

Dr. Tonder added that if a list of specific drugs were required, when new drugs are introduced, optometrists would have to refer patients who would benefit by the drug while waiting for approval to prescribe themselves.

Gail Yu, Assistant Attorney General, advised the Board of the process defined by statute and rule for review and response to the Petition. She also discussed the process for appeal of denial of a petition.

Following discussion, the Board requested additional information to assist in its review of the Petition.

Staff will contact WAEPS and request copies of the Committee Reports referenced in the Petition from WAEPS.

Staff will contact Optometric Physicians of Washington and request copies of the Committee Reports referenced in the Petition from WAEPS and any available documentation concerning the intent and purpose of the change in Substitute Senate Bill 5226, Section 1, (3) from “schedule” to “list” when referring to topical drugs for diagnostic and treatment purposes.

Dr. Riley will begin drafting a letter in response to the WAEPS Petition.

An open public Telephone Conference Call will be held on April 18, 2005, for final consideration and a motion on the Petition.

**3. Presentation: Prescription Monitoring Program**

Donald H. Williams, RPh, FASHP, provided information on Prescription Monitoring Programs (PMPs). A PMP is a program which collects, analyzes and distributes information concerning the prescribing and dispensing of controlled substances. PMP's are used to identify and deter persons who obtain drugs from multiple prescribers and pharmacies for personal abuse or sale. They may also be used to identify possible inappropriate prescribing practices.

**4. 2005 Post Graduate Education Seminar**

The Board finalized arrangements for the Seminar to begin the following morning, March 19, 2005, in Kane Hall at the University of Washington.

**5. Report on Sub-Committee Recommendation and Proposed amendments to WAC 246-851 in response to the Federal Contact Lens Consumer Act. Information/Action.**

R Richard Ryan, O.D., reported on the progress of the Rules Development Subcommittee. The Subcommittee was formed to develop a recommendation to the Secretary of the Department of Health regarding the need for new rules or rule amendment in response to the Fairness to Contact Lens Consumers Act.

The Subcommittee held meetings in January and February 2005. As a result of these meetings, a final draft is nearly complete for consideration at a regular stakeholder meeting.

Lund Chin, O.D. and Mariann Tonder, O.D. also participated in the work of the Subcommittee.

**6. Council on Endorsed Licensure Mobility for Optometrists (CELMO)**

The Council on Endorsed Licensure Mobility for Optometrists (CELMO) was established and developed at the June 2003 Association of Regulatory Board of Optometry Annual Meeting. The purpose of the CELMO Committee is to provide a proposal for license mobility through a national licensure by endorsement program featuring standardized eligibility requirements.

The CELMO Committee provided its program for the Board's review and requested input or suggestions. Following review, the Board requested that a letter be sent to the CELMO Committee thanking them for providing the information for the Board. The letter should include information on Washington State licensure requirements and ask to be kept informed of the work of the CELMO Committee.

**7. Continuing Education Courses - Action**

17.1 The Board reviewed the following coursework:

"CustomVue Integration into the Optometric Office" sponsored by Restore Vision Centers presented in Boise, ID on 10/26/2004. Approved for 1 credit hour.

"Various courses" sponsored by University of Missouri - St. Louis School of Optometry presented in Kansas City, MO on 2/11/2005. Approved for 54 credit hours.

"Northwest Ocular Pathology Winter Conference" sponsored by NW Permanente presented in Portland OR on 1/11/2005. Approved for 3 credit hours.

"The Peri-Operative Implications of Herbal Drugs", "Central Serous Chorioretinopathy", "Botox in Ophthalmology", and "Northwest Lions Eye Bank" sponsored by Spokane Eye Clinic presented in Spokane, WA on 3/5/2005. Approved for 4 credit hours.

"Medical Optometry II" sponsored by PCLI presented in Retina & Macula Specialists, in Tacoma WA on 1/12/2005. Approved for 2 credit hours.

"Loss of Visual Field & Eyelid Surgical Options", "Dry Eyes and the use of Restasis", and "Herpes Zoster Manifestations of the Eye" sponsored by Virginia Mason Medical Center presented in Seattle, WA on 3/22/2005. Approved for 2 credit hours.

“Today's Research, Tomorrow's Practice: The Future Clinical Application of New High Tech Devices” “Quantitative Nerve Fiber Layer Analysis” “The Peripheral Retina” “Diabetes Primary Eye/Vision Care: The Now and the Horizon” “Irregular Corneas, Topograph sponsored by Montana Optometric Association, Big Sky Ski Conference presented in Big Sky, MT on 3/3/2005. Approved for 12 credit hours.

“Optic Nerve Edema Differential and Case Reports” sponsored by Inland Society presented at the Veterans Affairs Medical Center on 1/13/2005. Approved for 3 credit hours.

“Nutrition & Health...21st Century...More than a Pyramid Scheme” sponsored by NW Permanente Department presented in Portland, OR on 4/21/2005. Approved for 2 credit hours.

“Anterior Segment” – approved for 3 hours, “Contact Lenses” – approved for 22 hours, “Functional Vision/Pediatrics” – approved for 20 hours, “General Optometry” – approved for 21 hours, “Glaucoma” – approved for 13 hours, “Peri-Operative Management Ophthalmic Surgery” – approved for 5 hours, “Low Vision” – approved for 2 hours, “Neuro-Optometry” – approved for 6 hours, “Pharmacology” – approved for 3 hours, “Posterior Segment” – approved for 11 hours, “Practice Management” – approved for 2 hours, “Principles of Diagnosis” – approved for 3 hours, “Refractive Surgery” – approved for 8 hours, “Treatment/Management of Ocular Disease-Anterior Seg.” – approved for 15 hours, “Systemic Ocular Disease” Approved for 12 hours. Sponsored by American Optometric Association presented in Gaylord Texan Resort and Convention Center on 6/22/2005.

“Clinical Consultation and Refractive Surgery Procedures”, and “Surgical Management of Cataracts” sponsored by NW Eye Surgeons presented in Seattle, WA on 2/1/2005. Approved for 3 credit hours.

The following reports on professional journals were approved:

“Why Test for Blood Pressure?” – Article in the Review of Optometry

“Battling Conjunctival Tumors” - Article in the Optometric Management

“Benefits and Challenges of High-Dk/t Materials” - Article in the Contact Lens Spectrum

“Not all Tears are Created Equal” - Article in the Review of Optometry

“You can follow Benign Nevi” - Article in the Review of Optometry

“Ocular Side Effects from Herbal Medicines and Nutritional Supplements” - Article in the Review of Optometry

“Optic disk evaluation and utility of high-tech devices in the assessment of glaucoma” - Article in the Journal of the American Optometric Association

“A Case Report and Review of Filamentary Keratitis” - Article in the Journal of the American Optometric Association

“Full-time Occlusion Compared to Part-time Occlusion for the treatment of Amblyopia” - Article in the Journal of the American Optometric Association

“Pseudoexfoliation Syndrom and Pseudoexfoliative Glaucoma” - Article in the Journal of the American Optometric Association. Approved for 10 credit hours.

“Hypertension and Hyperlipdemia” sponsored by NW Eye Surgeons, in Mount Vernon, WA on 3/2/2005. Approved for 1 credit hour.

“Ophthalmology and Optometry Coding and Billing for 2005” sponsored by Cross County Education presented in Seattle, WA on 3/24/2005. Approved for 6 credit hours.

“Central Serous Chorioretinopathy” presented at the Deaconess Medical Center on 3/5/2005. approved for 3 credit hours.

The courses offered through the “44<sup>th</sup> Annual Contact Lens & Primary Care Congress” were approved with the exception of those courses that were designated solely for Paraoptometrics. The courses were held in Kansas City, MO on 02/11-13/2005.

7.2 Designation of Reviewer Through June , 2005.

Jeffrey Sutro, O.D. will be primary reviewer of continuing education courses until the next regularly scheduled meeting. Lund Chin, O.D., will provide assistance as needed.

## **8. Legislative Update**

The Board was provided a summary of the following proposed legislation from Earl Tower, Lobbyist, of Tower Limited.

### **Substitute Senate Bill 5535:**

By January 1, 2006, all optometrists receiving an initial license in Washington must meet the standard requirements of the Board of Optometry and meet the requirements for using topically applied drugs for diagnostic and therapeutic purposes, the requirements to use or prescribe an oral drug, and the requirements for use of injectable epinephrine.

By January 1, 2008, all persons licensed to practice optometry must meet the standard requirements of the Board of Optometry and also the requirements for using topically applied drugs for diagnostic and therapeutic purposes.

By January 1, 2010, all persons licensed to practice optometry must be certified under the standard requirements of the Board of Optometry, must meet the requirements for using topically applied drugs for diagnostic and therapeutic purposes, the requirements to use or prescribe an oral drug, and the requirements for use of injectable epinephrine.

## **HB 1951**

**Background:** Rules adopted by the Washington Department of Health require school districts to provide screenings for the visual acuity of all children in kindergarten, and grades one, two, three, five, and seven. In addition, visual acuity screenings must be provided for any child showing signs of possible vision loss referred to the school or district by a parent, guardian or school employee. If resources permit, schools are directed to screen children at other grade levels. Screening must be performed by persons competent to administer the screening procedures as a function of their professional background and training or as a function of their special training and demonstrated competence under supervision.

**Summary of Bill:** Beginning September 1, 2006, a parent must provide proof that a comprehensive eye examination has been completed for a child diagnosed with a learning disability. The examination must be performed by a licensed optometrist or ophthalmologist and consideration should be given to testing binocular vision, accommodation, and convergence. An eye examination completed within the previous 12 months of the diagnosis of the learning disability is sufficient.

School districts must inform parents of the requirement for the eye examination and, to the extent practical, must provide informational resources for low-cost or no-cost eye examinations to the parents of uninsured or under-insured children. The Office of the Superintendent of Public Instruction (OSPI) must collect and distribute to school districts information regarding resources for low-cost or no-cost examinations, including contact phone numbers for the Optometric Physicians of Washington and the Washington Academy of Eye Physicians and Surgeons.

- 9. Department of Health/Health Professions Quality Assurance Fee Adjustment**  
Health Professions Quality Assurance has begun a rule-making process to give the Secretary the ability to better manage surplus funds in the Health Professions Account. Surplus funds are revenue in excess of the amount necessary to pay for the costs of administering the program, while maintaining a reasonable reserve.

Surplus funds cannot be used for program expenditures unless the spending authority has been given by the Legislature to utilize the funds.

Proposed new rules will give the Secretary the ability to adjust only RENEWAL fees by lowering the fee for the duration of at least one renewal cycle. This will reduce the amount of revenue received into the Health Professions account.

Language will be added to every profession WAC to permit the Secretary to adjust renewal fees for the duration of at least one renewal cycle when necessary.



A reasonable reserve is considered to be 10%. The target is 20% - or 120% of the revenue that was allotted. The goal is to reduce the surplus revenue to the 120% level by July 2007.

**10. Budget Report - Information**

The Board reviewed revenue and expenditures for the month ending January 2005.

**11. Meeting Dates**

The June 3, 2005, meeting has been cancelled and tentatively scheduled for July 18, 2005.

**CLOSED SESSION:**

**13. Review of License Applications**

The Board considered and approved four applicants.

**14. Disciplinary Case Review**

The following cases were reviewed:

Case Number: 2005-03-0001OD

Closed – billing issue.

Case Number: 2004-11-0002OD

Closed – No violation determined.

**15. Presentation of Stipulation to Informal Disposition**

Kristi Weeks, Staff Attorney presented Stipulation to Information Disposition, Docket Number: 05-02-A-1059OD. The Board accepted the Stipulation as presented.

**16. ADJOURNMENT**

The meeting was adjourned at 3:30 p.m.

Respectfully submitted: \_\_\_\_\_

Judy Haenke, Program Manager

Approved: \_\_\_\_\_

Thomas Riley, O.D., Chair